S.B.Criminal Revision Petition No.900/2007

Hansraj Raigar vs. State of Rajasthan

Date of Order :::: 13 September,2007

HON'BLE MR.JUSTICE G.S.SARRAF

Mr.Mahendra Kuldeep for the petitioner
Mr.Ashwani Kumar Sharma, P.P.

This criminal revision petition under Section 397 read with Section 401 Cr.P.C. is directed against the order dated 6.8.2007 passed by Additional Sessions Judge (Fast Track) No.2, Jaipur City, Jaipur in criminal case No.33/2007 whereby charges have been framed against the petitioner under Sections 363, 366, 376, 384 IPC.

Brief facts giving rise to this criminal revision petition are that the prosecutrix Meena Nama lodged a report on 15.4.2007 at the police station Vaishali Nagar, Jaipur alleging therein that the petitioner Hansraj Raigar presenting himself as Sahil Soni and representing to be unmarried, took her to various places and raped her against her will. It was also mentioned that the petitioner got her signatures on a stamp paper under fear and duress. On the basis of the above report a case under Sections 363,366, 376, 384 IPC was registered vide FIR No.273/2007 and after investigation the police submitted charge sheet against the petitioner. Learned trial court by the impugned order framed charges against

the petitioner as mentioned hereinabove. Aggrieved, the petitioner has filed the present revision petition.

Heard learned counsel for the petitioner and learned Public Prosecutor and perused the impugned order.

Under Section 363 IPC, for the offence of kidnapping from the lawful guardianship, the age of the female has to be under 18 years. It is not in dispute that the date of birth of the prosecutrix is 20.9.1986 and she is alleged to have been kidnapped by the petitioner for the first time in December,2006. It is thus clear that at the time of the alleged kidnapping, she was more than 20 years of age. Therefore, I am of the opinion that the charge under Section 363 IPC is not sustainable.

However, after hearing learned counsel for the petitioner and learned Public Prosecutor and after going through the first information report as also the statement of the prosecutrix recorded under Section 164 Cr.P.C. I am of the opinion that there does exist a prima facie case against the petitioner for the purpose of framing of charges under Sections 366, 376, 384 IPC.

Consequently, the revision petition is partly allowed and the order framing charge under Section 363 IPC against the petitioner is set aside and the charge

framed against him under Section 363 IPC be deleted. However, the impugned order regarding framing of charges under Sections 366, 376, 384 IPC is maintained.

The revision petition stands disposed of as above.

(G.S.Sarraf),J.

bairwa